
**Testimony of Andrea Mancuso, on behalf of the Maine Coalition to End Domestic Violence
Neither For Nor Against LD 747: “An Act to Require the Probate Court to Report Name
Changes to the State Bureau of Identification”
Before the Joint Standing Committee on Judiciary
Wednesday, March 8, 2023**

Senator Carney, Representative Moonen, and members of the Joint Standing Committee on Judiciary, I am writing on behalf of the Maine Coalition to End Domestic Violence (MCEDV)¹ neither for nor against LD 747, “An Act to Require the Probate Court to Report Name Changes to the State Bureau of Identification” to raise issues for your consideration.

Criminal records can be an important component of community accountability and public safety. Certainly, the probate courts should have the benefit of reviewing a person’s criminal record and the ability to consider a criminal record in determining whether to grant a petition to change a name. We note that the current statute allows for both, but it does not require either.² Employers and licensing authorities have valid interests in understanding if those who may later be seeking a position of trust within the community have a prior criminal history indicating the person is inappropriate for such a role or poses a heightened risk to vulnerable community members. To that end, MCEDV supports the policy goal of increasing appropriate information sharing between Maine’s probate courts and the State Bureau of Identification.

However, name changes have been, and continue to be, a tool that survivors of domestic abuse and violence (and other crime victims) utilize for themselves and their children to support their safety in some of the most extreme cases of abuse or those cases

¹ MCEDV serves a membership of eight regional domestic violence resource centers as well as the Immigrant Resource Center of Maine. Our member programs provided services to more than 12,000 victims of domestic violence and their children in Maine last year, including court advocacy services in the civil and criminal courts to more than 5,000.

² Maine’s probate courts have statutory authority to require a person seeking a name change to undergo one or more of the following background checks: a criminal history record check; a motor vehicle record check; or a credit check at the applicant’s cost (Title 18-C, section 1-701, subsection 5). The probate courts are also statutorily directed to not change the name of an applicant if the court has any reason to believe the person is seeking a name change for the purpose of committing fraud or for any other purpose contrary to the public interest (Title 18-C, section 1-701, subsection 6), but are given no guidance for how prior criminal history should impact that determination.

with a certain level of notoriety. For an albeit small number of crime victims, name changes are a critically important part of their path to healing and long-term wellbeing. Policy makers should take great care not to eviscerate this as a practical tool in response to a very real need identified for our systems to better guard against misuse of process.

Without appropriate guardrails in place, those who are intent on tracking down their victim would only need to use a records request to the State Bureau of Identification to do so. For example, Jan Doe has determined that relocation is necessary to their safety as a result of a pattern of domestic abuse and violence from their ex-spouse, Pat. Jan successfully petitions the probate court to change their name to Sam Smith. Pat, hoping to find identity and location information for Jan, sends a criminal records request to the SBI, asking for information for Jan Doe. Pat then obtains a report on Jan Doe where “Sam Smith” is now listed as an alias as a result of the probate court having sent the name change order to the SBI under this new mandate.

MCEDV suggests that the most appropriate way to accomplish transparency around whether a name change is likely to impact public safety is to require the probate court to review the known criminal history of the applicant as part of the name change process. Then, where the probate court is in the best position to evaluate known facts and/or seek additional information, the probate court should determine what level of information sharing with the SBI, if any, is needed to best attend to any future public safety concerns.

If the committee determines some level of information sharing by the probate court back to the SBI should be mandated, we ask the Committee to consider a process whereby:

- anyone seeking a name change must be provided with accurate and transparent information concerning what communication the probate court and the State Bureau of Information will have in response to both their petition and any resulting name change order;
- there should be a limit on who has access to the name change information when a criminal history record report from the State Bureau of Identification is sought, which should not include making that information open to the general public;
- name change orders for petitioners without any prior criminal record should not be required to be reported to the State Bureau of Identification; and
- if the probate court has determined that there is good cause for the probate records around the name change to be sealed, the probate judge has some level of discretion to determine if a balancing of the interests and potential harms indicates the name change order should not be shared with state agencies absent further court order.

We appreciate that the State Bureau of Identification and the Department of Public Safety are willing to continue to discuss the information sharing needs they have identified and to work together with interested parties to bring forward a modified proposal for your



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consideration. We look forward to working with them on these issues. As always, thank you for the opportunity to share our perspective.

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